

STAND. COM. REP. NO.

2294

Honolulu, Hawaii

FEB 12 2014

RE: S.B. No. 2108
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committees on Water and Land and Public Safety,
Intergovernmental and Military Affairs, to which was referred S.B.
No. 2108 entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

beg leave to report as follows:

The purpose and intent of this measure is to make permanent
the civil liability protection for government agencies regarding
their duty to warn of dangers on improved public lands and for
county lifeguards.

Your Committees received testimony in support of this measure
from the Department of Land and Natural Resources, Department of
the Attorney General, Department of the Corporation Counsel of the
City and County of Honolulu, Department of Emergency Services of
the City and County of Honolulu, Mayor of the County of Maui,
Mayor of the County of Kauai, Mayor of the County of Hawai'i,
Kaua'i Fire Department, Hawai'i Fire Department, County of Maui
Department of Fire and Public Safety, Hawaii State Fire Council,
Honolulu Fire Department, Hawaiian Lifeguard Association, Kaua'i
Chamber of Commerce, Kauai Lifeguard Association, Hawaii
Government Employees Association, and eight individuals. Your
Committees received testimony in opposition to this measure from
the Hawaii Association for Justice.

Your Committees find that since the passage of legislation in
the form of Act 82, Session Laws of Hawaii 2003 (Act 82), and in
the ensuing eleven years, the Department of Land and Natural

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Resources has initiated a comprehensive sign program that is deployed statewide in public recreational areas associated with parks and wilderness trails. These actions have resulted in a variety of critical outcomes and now institutionalized management practices. The public has become accustomed to seeing the uniform, standard signs warning of potential exposure to hazardous natural conditions at managed trailheads and park entrances, in addition to at the actual point of exposure.

This sign program strikes the balance between the government's duty to warn and the public's responsibility to heed that warning and make an informed choice, before engaging in recreational activity.

Act 170, Session Laws of Hawaii 2002, provides liability protection for counties and county lifeguards while providing rescue, resuscitative, or other lifeguard services. Your Committees find that the State does not have lifeguards but contracts with the counties for lifeguard services at its state parks. Liability concerns had prevented some counties from participating. Act 170 cleared up these concerns and allowed the State to contract with all counties for lifeguard services at state beach parks. If Act 170 is allowed to sunset, the risk is that counties may pull out of the program.

Your Committees have amended this measure by:

- (1) On the recommendation of the Attorney General, deleting its contents and inserting the contents of S.B. No. 1007, S.D. 2, Proposed H.D. 1 (Regular Session of 2014), which makes Act 82 permanent and additionally extends the conclusive presumption of signage as legally adequate warning of dangerous non-natural conditions on unimproved public lands; and
- (2) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

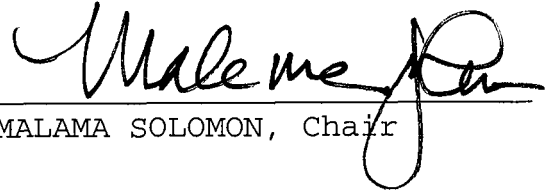
As affirmed by the records of votes of the members of your Committees on Water and Land and Public Safety, Intergovernmental and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2108, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2108, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Public Safety,
Intergovernmental and Military
Affairs,



WILL ESPERO, Chair



MALAMA SOLOMON, Chair



The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* <div style="font-size: 1.5em; font-family: cursive;">SB2108</div>	Committee Referral: <div style="font-size: 1.5em; font-family: cursive;">WTL/PSM, JDL</div>	Date: <div style="font-size: 1.5em; font-family: cursive;">2/7/14</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
SOLOMON, Malama (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
DELA CRUZ, Donovan M.				✓
IHARA, Jr., Les	✓			
RUDERMAN, Russell E.	✓			WTL
SHIMABUKURO, Maile S.L.				✓
TANIGUCHI, Brian				✓
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
TOTAL	6			3
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: 0.7em; margin-top: 2px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

*Only one measure per Record of Votes

The Senate
Twenty-Seventh Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety and Military Affairs
PSM

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2108</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">WTL/PSM, JDL</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2-7-2014</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh				✓
SLOM, Sam	✓			
TOTAL	4	-		1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-top: 10px;">Rosalyn H. Baker</div>				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

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